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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,724	04/15/2004	Donald M. Pohler	DMP-659	6715
46488	7590	03/07/2008	EXAMINER	
JOHN M. HAMMOND			KOCZO JR, MICHAEL	
PATENT INNOVATIONS LLC				
150 LUCIUS GORDON DRIVE				
SUITE 205				
WEST HENRIETTA, NY 14586				
			ART UNIT	PAPER NUMBER
			3746	
			MAIL DATE	DELIVERY MODE
			03/07/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/824,724

Applicant(s)

POHLER, DONALD M.

Examiner

Michael Koczo, Jr.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) 6-14, 17-22, 25-27, 30-37, 40-43 and 47 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5 is/are allowed.
- 6) ☒ Claim(s) 1-4, 15, 16, 23, 24, 28, 29, 38, 39 and 44-46 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 February 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

Applicant's arguments filed on February 1, 2008 have been fully considered but they are not persuasive.

### ***Claim Rejections - 35 USC § 102***

Claims 1, 29, 39 and 45 are rejected under 35 U.S.C. 102(b) as being anticipated by Curtis (US 2,312,525). Curtis discloses an electric motor driven pump having a cover 16 forming part of the volute chamber 21. Regarding claims 29, 39 and 45, the end cover 40 has an inlet opening 82, a shaft opening and a bearing race, respectively.

Claims 16, 23, 24 and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by either of Mathis et al (US 6,464,471) or Colwell (US 5,375,651). Mathis et al disclose a pump having a motor disposed in a cylindrical housing 68. The housing has an open end with a cover 36 attached thereto. The housing has a first air inlet opening 56 and a first air outlet opening 80. Colwell discloses a pump having a motor disposed in a cylindrical housing 11. The housing has end covers 12 with air openings 14.

Claim 38 is rejected under 35 U.S.C. 102(b) as being anticipated by Mathis et al. Cover 36 is made of plastic (col. 3, l. 53).

### ***Claim Rejections - 35 USC § 103***

Claims 2 to 4, as understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Harker et al (US 4,569,638) in view of Curtis. Harker et al disclose an electric motor driven

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pump having a cover 103. However, Harker et al do not disclose that the cover forms a volute chamber. Curtis discloses that it is known to form volute chambers for reducing the flow velocity of the pumped fluid. In view of this teaching, it would have been obvious to form the pump chamber of Harker et al in the form of a volute. Plate 101 of Harker et al is readable as an “exclusionary plate”.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Curtis in view of Ishida et al (US 5,248,238). Ishida et al disclose an electric motor driven pump having a housing made of aluminum alloy (col. 7, para. 1). Aluminum alloy is lightweight and corrosion resistant. In view of this teaching, it would have been obvious to make the pump/motor housing of Curtis of aluminum alloy.

Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over either of Mathis et al or Colwell, as applied to claim 16 above, and further in view of Ishida et al, for the reasons as applied previously.

Claims 44 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over either of Mathis et al or Colwell in view of DeAngelis (US 4,162,419). DeAngelis discloses a cylindrical motor housing 14 having an end cover 94 having holed flanges for mounting bolts (fig. 4). In view of this teaching, it would have been obvious to mount the end cover of either of Mathis et al or Colwell to the housing via bolts and holed flanges.

***Response to Arguments***

Applicant argues that the references do not disclose a “unitary housing” which houses a motor and forms a pump cavity. The housing of Curtis is formed of several pieces which are rigidly fastened to each other to form a unitary housing. The housing of Curtis is furthermore readable as being of one piece which is formed of other pieces. It would appear that applicant is attempting to claim that the housing is homogeneous throughout its entirety, such as if the housing were cast or molded as one piece. This could be claimed using a product-by-process limitation.

***Allowable Subject Matter***

Claim 5 is allowed.

***Conclusion***

Claims 6 to 14, 17 to 22, 25 to 27, 30 to 37, 40 to 43 and 47 stand withdrawn from further consideration as being drawn to non-elected inventions.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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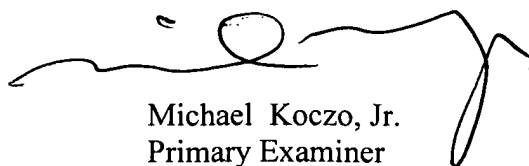
will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry relating to patent applications in general should be directed to the Patent Assistance Center at 1-800-786-9199.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Kocz, Jr. whose telephone number is 571-272-4830. The examiner can normally be reached on M-Th; 7:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Devon C. Kramer can be reached at 571-272-7118. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Michael Kocz, Jr.  
Primary Examiner  
Art Unit 3746